

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MATTHEW PRICE

Petitioner

v.

No. 2:06-cv-229

Judge Edgar

DAVID BERGH

Respondent

MEMORANDUM AND ORDER

Petitioner Matthew Price (“Price”) has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition was referred to United States Magistrate Judge Timothy P. Greeley for a report and recommendation under 28 U.S.C. § 636(b)(1)(B) and W.D. Mich. LCivR 72.1(d). On October 5, 2006, the Magistrate Judge submitted his report and recommendation that the habeas petition be summarily dismissed without prejudice. [Doc. No. 3]. Price has not timely filed any objections to the report and recommendation.

After reviewing the record, the Court **ACCEPTS** and **ADOPTS** the report and recommendation pursuant to 28 U.S.C. § 636(b)(1), Fed.R.Civ.P.72(b) and W.D. Mich. LCivR72.3(b). The habeas petition shall be **DENIED** and **DISMISSED WITHOUT PREJUDICE**. A separate judgment will enter.

Any appeal by Price from this decision would be frivolous. Price has not made a substantial showing of a denial of a constitutional right that is cognizable in a habeas corpus action. For the

reasons expressed by the United States Magistrate Judge, a certificate of appealability is **DENIED** to Price under 28 U.S.C. § 2253(a).

SO ORDERED.

Dated: November 27, 2006

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE